

## **§ 161.401**

### **§ 161.401 Will new permits be granted after the initial reissuance of permits?**

(a) Following the initial reissuance of permits under §161.400, the Navajo Nation can grant new permits, subject to BIA approval, if:

(1) Additional permits become available; and

(2) The carrying capacity and stocking rates as determined under §§161.204 and 161.403 allow.

(b) The Navajo Nation must inform BIA if it grants any permits under paragraph (a) of this section.

### **§ 161.402 What are the procedures for reissuing permits?**

BIA, with the concurrence of the Navajo Nation, will reissue grazing permits only to individuals that meet the eligibility requirements in §161.400. Responsibilities for reissuance of grazing permits are as follows:

(a) BIA will develop a complete list consisting of all former permittees whose permits were cancelled and the number of animal units previously authorized in prior grazing permits. This list will be provided to the Grazing Committee and Resources Committee for their review. BIA will also provide the Grazing Committee and Resources Committee with the current carrying capacity and stocking rate for each range unit within the Navajo Partitioned Lands, as determined under §161.204.

(b) Within 90 days of receipt, the Grazing Committee will review the list developed under §161.402(a), and make recommendations to the Resources Committee for the granting of grazing permits according to the eligibility and priority criteria in §161.400.

(c) If the Grazing Committee fails to make its recommendation to the Resources Committee within 90 days after receiving the list of potential permittees, BIA will submit its recommendations to the Resources Committee.

(d) The Resources Committee will review and concur with the list of proposed permit grantees, and then forward a final list to BIA for the reissuance of grazing permits. If the Resources Committee does not concur, the procedures outlined in §161.800 will govern.

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(e) The final determination list of eligible permittees will be published. Permits will not be issued sooner than 90 days following publication of the final list.

### **§ 161.403 How are grazing permits allocated within each range unit?**

(a) Initial allocation of the number of animal units authorized in each grazing permit will be determined by considering the number of animal units previously authorized in prior grazing permits and the current authorized stocking rate on a given range unit.

(b) Grazing permit allocations may vary from range unit to range unit depending on the stocking rate of each unit, the range management plan, and the number of eligible grazing permittees in the unit.

## **Subpart F—Modifying A Permit**

### **§ 161.500 May permits be transferred, assigned or modified?**

(a) Grazing permits may be transferred, assigned, or modified only as provided in this section. Permits may only be transferred or assigned as a single permit under Navajo Nation procedures and with the approval of BIA. Permittees must reside within the same range unit as the original permittee.

(b) Permits may be transferred, assigned, or modified with the written consent of the permittee, District Grazing Committee and/or Resources Committee and approved by BIA.

(c) BIA must record each transfer, assignment, or modification that it approves under a permit.

### **§ 161.501 When will a permit modification be effective?**

BIA approval of a transfer, assignment, or modification under a permit will be effective immediately, notwithstanding any appeal, which may be filed under part 2 of this title. Copies of approved documents will be provided to the permittee and made available to the Navajo Nation upon request.

### **§ 161.502 Will a special land use require permit modification?**

Yes. When the Navajo Nation and BIA approve a special land use, the

grazing permit will be modified to reflect the change in available forage. If a special land use is inconsistent with grazing activities authorized in the permit, the special land use area will be withdrawn from the permit, and grazing cannot take place on that part of the range unit.

### Subpart G—Permit Violations

#### § 161.600 What permit violations are addressed by this subpart?

This subpart addresses violations of permit provisions other than trespass. Trespass is addressed under subpart H.

#### § 161.601 How will BIA monitor permit compliance?

Unless the permit provides otherwise, BIA and/or Navajo Nation may enter the range unit at any reasonable time, without prior notice, to protect the interests of the Navajo Nation and ensure that the permittee is in compliance with the operating requirements of the permit.

#### § 161.602 Will my permit be canceled for non-use?

(a) If a grazing permit is not used by the permittee for a 2-year period, BIA may cancel the permit upon the recommendation of the Grazing Committee and with the concurrence of the Resources Committee under § 161.606(c). Non-use consists of, but is not limited to, absence of livestock on the range unit, and/or abandonment of a permittee's grazing permit.

(b) Unused grazing permits or portions of grazing permits that are set aside for range recovery will not be cancelled for non-use.

#### § 161.603 Can mediation be used in the event of a permit violation or dispute?

A permit may provide for permit disputes or violations to be resolved with the District Grazing Committee through mediation.

(a) The District Grazing Committee will conduct the mediation before the Navajo Nation's appropriate hearing body, before BIA invokes any cancellation remedies.

(b) Conducting the mediation may substitute for permit cancellation.

However, BIA retains the authority to cancel the permit under § 161.606.

(c) The Navajo Nation's appropriate hearing body decision will be final, unless it is appealed to the Navajo Nation Supreme Court on a question of law. BIA will defer to any ongoing proceedings, as appropriate, in deciding whether to exercise any of the remedies available to BIA under § 161.606.

#### § 161.604 What happens if a permit violation occurs?

(a) If the Resources Committee notifies BIA that a specific permit violation has occurred, BIA will initiate an appropriate investigation within 5 business days of that notification.

(b) Unless otherwise provided under tribal law, when BIA has reason to believe that a permit violation has occurred, BIA or the authorized tribal representative will provide written notice to the permittee within 5 business days.

#### § 161.605 What will a written notice of a permit violation contain?

The written notice of a permit violation will provide the permittee with 10 days from the receipt of the written notice to:

(a) Cure the permit violation and notify BIA that the violation is cured;

(b) Explain why BIA should not cancel the permit;

(c) Request in writing additional time to complete corrective actions. If additional time is granted, BIA may require that certain actions be taken immediately; or

(d) Request mediation under § 161.603.

#### § 161.606 What will BIA do if the permittee doesn't cure a violation on time?

(a) If the permittee does not cure a violation within the required time period, or if the violation is not referred to District Grazing Committee for mediation, BIA will consult with the Navajo Nation, as appropriate, and determine whether:

(1) The permit may be canceled by BIA under paragraph (c) of this section and §§ 161.607 through 161.608;

(2) BIA may invoke any other remedies available to BIA under the permit;